

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln No.:	10/806,832)	Confirmation No. 4230
)	
Filed:	March 23, 2004)	<u>VIA EFS WEB E-FILING</u>
)	<u>On March 8, 2010</u>
Applicants:	Nishikawa, et al.)	
)	
Title:	Filter Criteria And Results Display)	
	Apparatus And Method)	
)	
Art Unit:	2426)	
)	
Examiner:	Josh Taylor)	
)	
Attorney Docket:	7114/81205)	

Commissioner for Patents

P. O. Box 1450

Alexandria, Virginia 22313-1450

REPLY BRIEF

Sir:

Pursuant to 37 C.F.R. § 41.41, the Applicants' hereby respectfully submit the following Reply to the Examiner's Answer mailed January 6, 2010.

For the most part, the Examiner has not raised new arguments in his Answer, and hence the contents of the earlier-submitted Appeal Brief remain relevant and largely without need for supplementation. This Reply is directed to the arguments presented by the Examiner in Section (10) of the Answer entitled "Response to Argument."

With all due respect, the Examiner's Response to Argument accentuates the error in the rejection under 35 U.S.C. § 103(a) over Ellis et al. (U.S. Patent No. 7,065,709) in view of Robertson et al. (U.S. Patent No. 7,149,983) and Billmaier et al. (U.S. Patent No. 7,159,177). On Page 17 of the Answer, the Examiner contends that: (emphasis in original)

[T]he combined teachings of Ellis and Robertson disclose teachings which would lead one of ordinary skill in the art at the time of the invention to construct

an electronic program guide which was able to *perform the same functionality* as Applicant's claimed invention, but not *in the exact layout* as Applicant's claimed invention; that is, such an electronic program guide would allow a user to filter characterizing descriptors of television programs in order to find programming that matched the criteria of said user. Thus, returning to Applicant's assertion concerning quadrants [of Billmaier] being view as rows, Examiner contends that Billmaier is used purely *as a representation of a possible electronic program guide layout*.

The Examiner incorrectly contends that the teachings of Ellis and Robertson would lead one of ordinary skill in the art to construct a guide with the same functionality as Applicants' claimed invention because the Examiner incorrectly characterizes the functionality of Applicants' invention. The Examiner does not dispute that Ellis and Robertson do not disclose the layout of Applicants invention, and indeed, the layout of Applicants' invention is an important aspect of its functionality.

Claim 1 of applicants' invention recites:

"at least a portion of the characterizing descriptors as corresponds to a present setting of the first and second plurality of user-selectable characterizing descriptor filter criteria, the portion of the characterizing descriptors as corresponds to a present setting of the first and second plurality of user-selectable characterizing descriptor filter criteria displayed as a horizontal row of characterizing descriptors positioned between the first plurality of user-selectable characterizing descriptor filter criteria and the second plurality of user-selectable characterizing descriptor filter criteria."

An illustrative embodiment of this feature of the invention is shown in FIG. 4

(reproduced at the right), in which Applicants provide for simultaneous displaying a horizontal row (31 and 33) of first and second user-selectable characterizing filter criteria ("1st and 2nd Filter Criterion A-C") along with a horizontal row (32) of characterizing descriptors ("1st-3rd Characterizing Descriptor(s)") that correspond to a present setting of the first

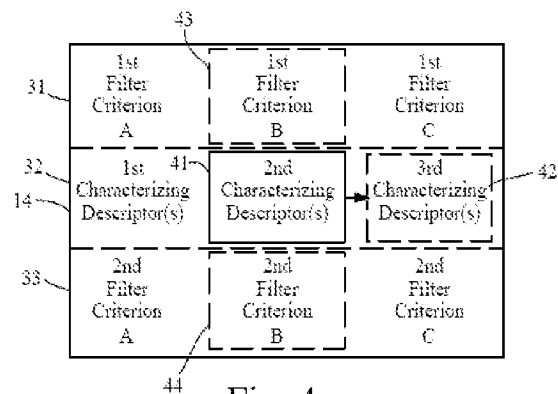


Fig. 4

and second plurality of user-selectable characterizing filter criteria. Applicants further provide that the first and second characterizing descriptor filter criteria (31 and 33) are displayed simultaneously in rows above and below the characterizing descriptors (32) corresponding to a present setting of the first and second user-selectable characterizing descriptor filter criteria.

In operation, the user selects specific filter criterion in the upper row and in the lower row, and the resultant display, in the center row, comprises corresponding programming results that meet these filter criteria. The user may view a program corresponding to a particular characterizing descriptor by moving an area of focus 41 over that selection in row 32. Alternatively, the user may change the filter criteria by moving the area of focus 41 to select among the other available filter criteria in rows 31 and 33. As the user selects among the different filter criteria in rows 31 and 33, the corresponding filtered programming results are displayed in row 32. This allows the user to conveniently filter programming options according to specific user-selected criteria and change one or more of the filter criteria while simultaneously viewing the results of the filtering.

Regarding the Examiner's contention on functionality, the function of Applicants' invention includes providing a horizontal row of characterizing descriptors positioned between rows of user-selectable characterizing descriptor filter criteria to allow the user to conveniently filter programming options according to specific user-selected criteria and change one or more of the filter criteria while simultaneously viewing the results of the filtering. Ellis and Robertson fail to disclose this function, and Billmaier fails to satisfy this deficiency in Ellis and Robertson. As set forth in their Appeal Brief, Applicants do not read Billmaier to disclose rows as claimed by Applicants. However, even if Billmaier is viewed as disclosing rows, Billmaier does not disclose the functionality of Applicants' invention.

The Examiner also uses impermissible hindsight in combining Ellis, Robertson and Billmaier. On Pages 17-18 of the Answer, the examiner further asserts:

[O]ne of ordinary skill in the art may conclude that a new display layout is needed, as Ellis' Figure 9a may become too cramped with the addition of extra information, and Robertson's Figure 38 is less conducive to viewing from a television, as the words may be too small to read from a distance. Examiner asserts that the teaching of Billmaier of an electronic program guide layout comprising a three-by-three matrix would be sufficient for one of ordinary skill to choose to arrange the filters taught by Ellis and Robertson in such a manner as

claimed by Applicant. This would have produced predictable and desirable results, in that the functionality of the filtering process would be maintained, while the elements of said process would be displayed to a user in a manageable, easy to read manner as taught by Billmaier's display.

No fair combination of Ellis, Robertson, and Billmaier that does not rely on the hindsight application of Applicant's own teachings will yield the recitations of Applicants' claims. As discussed above, Applicants' rows are arranged in particular format, with characterizing descriptors positioned between two rows of user-selectable filter criteria. The advantageous functionality of Applicants' invention is provided by this layout. The Examiner fails to recognize this feature of Applicants' invention. Indeed, recognizing that a display "may become too cramped" does not lead one of ordinary skill to arrange a display into rows with characterizing descriptors positioned between two rows of user-selectable filter criteria. The mere suggestion of Billmaier of arranging a display into quadrants does not suggest modifying Ellis and Robertson to achieve Applicants' layout.

Based on the above arguments and the previously submitted Appeal Brief, we respectfully submit that Claims 1-17 are in suitable condition to support allowance and have been shown to be allowable over the prior art of record. We therefore respectfully seek a reversal of the Examiner's rejection of these claims.

Respectfully submitted,

Fitch, Even, Tabin & Flannery

Dated: March 8, 2010

/Joseph F. Marinelli/

Joseph F. Marinelli

Registration No. 46898

120 South LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406
Telephone (312) 577-7000
Facsimile (312) 577-7007